



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
Diane M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2400944

Applicant Name: Lorie Groth

Address of Proposal: 933 North Northlake Way

SUMMARY OF PROPOSED ACTION

Shoreline Substantial Development Permit to establish the use for future construction of a 2-story, 1,573 square foot floating home. Project includes a new float. Existing floating home and float to be removed (moorage #5).¹

The following Master Use Permit component is required:

Shoreline Substantial Development Permit – to allow a floating home in the US shoreline environment.

SEPA - Environmental Determination - (Chapter 25.05 SMC)

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

 ☒ DNS with conditions

 ☒ DNS involving non-exempt grading, or demolition, or
 involving another agency with jurisdiction.²

¹Project originally noticed as Shoreline Substantial Development Permit to establish the use for future construction of a 2-story, 765.38 square foot floating home. Storage space to be provided within the float below the water line. Project includes future removal of existing floating home (houseboat #5).

²Early Notice DNS published on March 18, 2004.

BACKGROUND DATA

Existing Conditions

The subject site is zoned Commercial 2 with a 30 foot height limit (C2-30) and is within the Urban Stable (US) shoreline environment. The site is along N. Northlake Way just east of the Aurora Avenue North bridge over the Ship Canal in Fremont. The site, known as Lee Moorings, includes 15 floating home moorages with surface parking on the dry land portion of the site.

Surrounding development in the vicinity is all zoned C2-30 and within the US shoreline environment. Surrounding property is developed with marina, commercial moorage, surface parking and office.

Proposed Action

The applicant proposes to construct a two-story, 1,573 square foot floating home on a new concrete float. The new floating home will have 789.4 square feet on the float level which consists of the entry, storage, mechanical and laundry rooms and will have 783.1 square feet of living space on the second floor. A roof deck with an open railing is proposed on the rooftop. The overwater coverage will not change in that the new float will be the same size as the existing float. The existing home and float are to be removed and/or demolished.

Public Comment

No comment letters were received during the public comment period which ended on April 16, 2004.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

Substantial Development Permit Required

SMC 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of this Chapter; and*
- C. *The provisions of Chapter 173-27 WAC.*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. The policies and procedures of Chapter 90.58 RCW;

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shorelines Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code as Chapter 23.60.

Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions.

The proposal is subject to the Shoreline Policies of SMC 23.60.004 because the site is located within the shoreline district and the cost of the project exceeds \$5000. The floating home moorage is located on privately owned premises, namely the Lees Moorings, a Condominium- unit #5, King County Assessors, tax identification #4253000050.

The proposed floating home has been designed to ensure minimum impact to the public health, land, and the waters of the state, and their aquatic life. The layout of the floating home will not interfere with the public rights of navigation and corollary rights, thus providing for the management of the shorelines by planning for and fostering all reasonable and appropriate uses. Therefore, the subject application is consistent with the procedures outlined in RCW 90.58.

B. The regulations of this Chapter; and

Pursuant to SMC 23.60.064C, in evaluating whether a development which requires a substantial development permit, conditional use permit, variance permit or special use authorization meets the applicable criteria, the Director shall determine that the proposed use: 1) is not prohibited in the shoreline environment and the underlying zone and; 2) meets all applicable development standards of both the shoreline environment and underlying zone and; 3) satisfies the criteria for a shoreline variance, conditional use, and/or special use permits, if required.

This proposal does not require a shoreline variance, conditional use or special use permit.

The subject property is classified as a waterfront lot (SMC 23.60.924) and is located within an Urban Stable (US) environment, as designated by the Seattle Shoreline Master program. The principal use on this waterfront lot property is floating home moorage and it is a permitted use in the underlying C2-30 zone and in the Urban Stable (US) shoreline environment. The proposal is classified as a floating home and must meet the standards for nonconforming floating home moorages (SMC 23.60.196.C(1)).

The proposed project must meet the standards of the underlying C2-30 zone, the development standards for Urban Stable shoreline environment (SMC 23.60.630 through 642) and the general development standards for all shoreline environments (SMC 23.60.152). The proposal has been reviewed by DPD and meets the applicable development standards of the C2 zone (SMC 23.47). The Director may attach to the permit or authorize any conditions necessary to carry out the spirit and purpose of, and ensure compliance with, Seattle's Shoreline Master Program (SMC 23.60.064).

SMC 23.60.630 through 23.60.642 and SMC 23.60.196C- Development Standards for US Environment and Non-Conforming Floating Home

All development must conform to the development standards in the US shoreline environments, as well as the underlying Commercial 2 zone. DPD staff has reviewed this proposal to ensure that standards such as height, lot coverage, public access, and view corridors have been met. Floating home moorages in Lake Union are permitted outright in the Urban Stable environment (SMC 23.60.600 A4). View corridors are not required for single family dwelling units (SMC 23.60.636 B) and floating homes are considered single family dwelling units (SMC 23.60.912). Public access is not required for water-dependent uses. There will be no change in lot coverage.

The rebuilding of a nonconforming floating home moorage is permitted subject to the provisions set forth in SMC 23.60.196 C. A new concrete float is proposed, but the over water coverage area will not be increased. The total height of the floating home will be the maximum 18 feet allowed from the water's surface. Therefore, the height of the floating home will be consistent with the required height limit for non-conforming floating homes in this Urban Stable environment. The plans show a minimum of six feet separation between the floating home wall and the wall of the neighboring floating homes. No part of the floating home will be extended further overwater beyond the size of the existing float. The extent of nonconformity of the floating home moorage with respect to view corridors will not be increased.

The project conforms to the development standards of the C2-30 zone, the US environment and the specific floating home standards.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district.

The policies support and encourage the establishment of water dependent uses. Floating homes, because of their historic role in Seattle, are designated as a water dependent use, but the increase of floating home moorages or the increase in use of the shoreline or water area by floating homes is not necessarily encouraged. The intent is to recognize the existing floating home community in Lake Union, while protecting natural areas, preserving public access to the shoreline, and preventing the displacement of water dependent commercial and manufacturing uses by floating homes. One of the area objectives, as listed in the City's Comprehensive Plan, for the Lake Union shoreline area, is to "preserve the existing floating home community".

The proposal will be located at an existing moorage for floating homes. The area of construction has not been designated an environmentally critical area and no disturbance of the lake bed will occur. The proposal for construction of a floating home on a new float meets the intent of the shoreline policies of the City of Seattle.

General Development Standards for all Shoreline Environments (SMC 23.60.152)

These general standards apply to all uses in the shoreline environments. They require that all shoreline activity be designed, constructed, and operated in an environmentally sound manner consistent with the Shoreline Master Program and with best management practices for the specific use or activity. All shoreline development and uses must, in part: 1) minimize and control any increase in surface water runoff so that receiving water quality and shoreline properties are not adversely affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impact to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety. The structure, as conditioned and mitigated, is consistent with the general standards for development within the shoreline area. General development standards (SSMP 23.60.152) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land and water. Additionally, the Stormwater, Grading and Drainage Control Code (SMC 22.800) places considerable emphasis on improving water quality.

C. The provisions of Chapter 173-27 WAC.

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). As the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of the SMC Chapter 23.60 is also consistency with WAC 173-27 and RCW 90.58.

Conclusion

Development requiring a Shoreline Substantial Development Permit can only be approved if it conforms to the policies and procedures of the WAC and RCW and with the regulations of Chapter 23.60 of the Seattle Shoreline Master Program.

The project as proposed meets the specific standards for development in the US environment. It also conforms to the general development standards, as well as the requirements of the underlying zone, therefore should be approved.

Pursuant to the Director's authority under Seattle's Shoreline Master Program, to ensure that development proposals are consistent with the policies and procedures, and conforms with specific development standards of the underlying zones, and having established that the proposed use and development are consistent with the Seattle Shoreline Program, the proposal, is hereby approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT

The proposed action is **APPROVED**.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated March 8, 2004 and annotated by the Department. The information in the checklist, supplemental information provided by the applicant, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 23.05.665) discusses the relationship between the City's code/policies and environmental review. The Overview Policy states, in part, "Where City regulations have been adopted to address an environmental impact; it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitation. The Overview Policy in SMC 23.05.665 D1-7, states that in limited circumstances it may be appropriate to deny or mitigate a project based on adverse environmental impacts.

The policies for specific elements of the environment (SMC 25.05.675) describe the relationship with the Overview Policy and indicate when the Overview Policy is applicable. Not all elements of the environment are subject to the Overview Policy (e.g., Traffic and Transportation, Plants and Animals and Shadows on Open Spaces). A detailed discussion of some of the specific elements of the environment and potential impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to increased dust and other suspended air particulates during construction; increased noise and vibration from installation and/or construction operations and equipment; slightly increased traffic and parking demand from construction personnel traveling to and from the work site.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The Building Code provides for construction measures and life safety issues. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city.

It is anticipated that construction for this project will be minor and of short duration. Compliance with the above applicable codes and ordinances will reduce or eliminate most adverse short-term impacts to the environment. However, impacts associated with air quality, noise and water quality warrant further discussion.

Air Quality

The Puget Sound Clean Air Agency (PSCAA) regulations require control of fugitive dust to protect air quality and will require permits for removal of asbestos or other hazardous substances during demolition. The applicant is required to obtain permits and/or follow regulations administered by PSCAA to ensure proper handling and disposal hazardous materials. The permit standards and regulations administered by PSCAA will sufficiently mitigate any adverse impacts to air quality; therefore no further mitigation is recommended pursuant to SEPA 25.05.675A.

Water Quality

The proposed project does not involve any in-water construction. However, construction will occur overwater and debris could enter the water during construction. Measures should be in place to prevent this from occurring, thus a clean up/removal plan should be in place. Typically, the Stormwater, Grading and Drainage Code require Best Management Practices for containment and clean up of spills of hazardous materials during demolition/construction of a project. In this instance, however, since this proposal would occur over water additional measures are necessary to insure adequate mitigation of the identified impacts. Therefore, pursuant to SEPA Water Quality Policies, the applicant must prepare and submit a Best Management Plan (BMP) that details the method of containment and removal of any structural debris or material that may enter Lake Union during construction. The Plan may be incorporated as construction notes on the final building permit plan sets.

Long-term Impacts

No long-term impacts are anticipated as a result of this proposal in that a floating home currently exists at this location, and the new floating home will be adequately mitigated by the Land Use Code and other regulations administered by DPD.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impacts upon the environment. An EIS is not required under RCW 43.21C.030.(2) (c).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2) (c).

SEPA CONDITIONS

The applicant/owner shall:

Prior to Issuance of a Building Permit

1. Submit a Best Management Plan that details the method of containment and removal of any debris or material that may enter Lake Union during construction. The Best Management Plan shall be incorporated into the final building permit plan sets.

Signature: (signature on file) Date: January 27, 2005
Jess E. Harris, AICP, Senior Land Use Planner